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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,426	01/20/2004	Lawrence M. Burns	1875.109000A	7760
26111	7590	05/08/2006	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			TRA, ANH QUAN	
			ART UNIT	PAPER NUMBER
			2816	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/759,426

Applicant(s)

BURNS ET AL.

Examiner

Quan Tra

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) 41-57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 41-57 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6512416. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims and application claims recite similar scope.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 41 rejected under 35 U.S.C. 102(e) as being anticipated by Bult et al. (USP 6879861).

As to claim 41, Bult et al.'s figure 38 shows an amplifier array, comprising: an input node (input); a first set of amplifiers (3801-3803), arranged in a parallel fashion, and having their inputs tied together at said input node; a resistor ladder coupled between the input node and ground; and a second set of amplifiers (3804-316), having their inputs tied to corresponding taps on the resistor ladder; wherein outputs of the first set of amplifiers and outputs of the second set of amplifier are summed together at an output the amplifier array; and wherein gain for the amplifier array is adjusted by sequentially turning off one or more amplifiers in the second set of amplifiers.

As to claim 46, figure 43 further shows a plurality of comparators (4310-4310) that correspond to each of the amplifiers in the first set of amplifiers and the second set of amplifiers, wherein each comparator compares a first voltage with a second voltage, resulting in a amplifier control signal that controls the corresponding amplifier in the amplifier array.

As to claim 47, figure 43 shows that the control signal turns on the corresponding amplifier when the first voltage is greater than the second voltage.

As to claim 48, figure 3 shows that the control signal turns off the corresponding amplifier when the second voltage is greater than the first voltage.

As to claim 49, figure 3 shows that the amplifier control signal causes the corresponding amplifier to operate linearly when a difference between said first voltage and the second voltage is less than a threshold.

As to claim 50, figure 43 shows a voltage divider (resistors in 4304) having an input that receives an external automatic gain control voltage (AGC) having a voltage range, wherein the voltage divider compresses the voltage range of the AGC voltage to generate the first voltage.

As to claim 51, figure 43 shows that the voltage divider includes a means (clamp transistor) for adjusting compression of said external AGC voltage.

As to claim 52, figure 38 shows that the input node is single-ended.

As to claim 53, figure 36 shows that the output of the amplifier array is differential.

As to claim 54, figure 36 shows that the first set of amplifiers and the second set of amplifiers are fabricated using one or more field effect transistors (FETs).

As to claim 55, figure 36 shows that field effect transistors are fabricated using a CMOS process.

As to claim 56, figure 36 shows that the input node is coupled to a diplexer, and the output is coupled to a tuner.

#### ***Allowable Subject Matter***

Claims 42-45 and 57 would be allowable if rewritten to overcome the double patenting rejection above.

Claims 42-45 and 57 would be allowable because the prior art fails to teach inductor, capacitor or ferrite bead coupled to the amplifier array.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quan Tra whose telephone number is 571-272-1755. The examiner can normally be reached on 8:00 A.M.-5:00 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on 571-272-1740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Quan Tra', with a long horizontal flourish extending to the right.

QUAN TRA  
PRIMARY EXAMINER  
ART UNIT 2816

May 2, 2006